

**TENNESSEE BOARD OF PHARMACY
MARCH 7 - 8, 2006
ROOM 160 – DAVY CROCKETT TOWER
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Julie Frazier, President
Sheila Mitchell, Vice President
Monica Franklin, Consumer Member
Todd Bess, Member
Bettie Wilson, Member
Reggie Dilliard, Member

STAFF PRESENT:

Terry Grinder, Interim Director
Alison Z. Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator
Terrence Cannada, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, March 7, 2006, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST, by Dr. Julie Frazier, President. President Frazier, stated Dr. Robert Mitchell will not be attending the meeting.

APPROVAL OF THE MINUTES

President Julie Frazier requested that the **January 17 - 18, 2006** minutes be deferred until Wednesday, March 8, 2006. Mrs. Monica Franklin motioned to **defer the January 17 - 18, 2006 board minutes until the May 16 - 17, 2006 meeting**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

CONSENT ORDERS

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for the Revocation of three (3) pharmacy technician registrations for theft of controlled substances from the pharmacy; dispensing controlled substances without a prescription from an authorized prescriber; and ingesting illegal substances, respectively.

**RANDY L. BUTLER, RT, Manchester, TN
CYNTHIA F. HEINZ, RT, Alexandria, TN
TERESA STOOKSBURY, RT, Rockwood, TN**

Dr. Todd Bess motioned to **accept** the above referenced technician's registrations for Revocation; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

REINSTATEMENT OF LICENSE

**ASA DRAKE, DPH
4140 Plantation Mill Drive
Buford, GA 30519**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Reinstatement of License for Dr. Asa Drake. Dr. Drake's license has been placed on probation for a term of ten (10) years to mirror the same length of time as the Georgia Board of Pharmacy. Dr. Todd Bess motioned to **accept** the Consent Order for the Reinstatement of License; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

SAMUEL SMITH, DPH
809 Coventry Road
Knoxville, TN 37923

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Reinstatement of License for Dr. Samuel Smith. Dr. Smith's license has been placed on probation for a term of ten (10) years. Dr. Todd Bess motioned to **accept** the Consent Order for the Reinstatement of License; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

UNPROFESSIONAL CONDUCT

WILLIAM A. DAVIS, DPH
215 Westwood Drive
McMinnville, TN 37110

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. William Davis was in violation of T.C.A. §63-10-506 (a), (Part 5 now Part 3) engaging in the practice of pharmacy without a current license for approximately one (1) month. Dr. Davis was assessed a civil penalty of \$100. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

WAIVERS

GWENDOLYN BRANTLEY, DPH
2827 Dunaway Drive
Albany, GA 31721

Dr. Gwendolyn Brantley is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) and (5) relevant to the successful completion of the MPJE and internship hours required for the reinstatement of her pharmacist license. Interim director, Dr. Terry Grinder, informed the members of the Board at the September 20 - 21, 2005, board meeting, Dr. Brantley was granted a waiver of the NAPLEX exam, as she has been a practicing pharmacist for the past sixteen (16) years in Georgia. Dr. Brantley noted she is currently enrolled in a PharmD program. Dr. Sheila

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Mitchell motioned to deny the waiver request for the MPJE. After Board discussion, Dr. Sheila Mitchell withdrew her motion. The Board deferred the waiver request pending additional information.

Interim director, Dr. Terry Grinder, advised the Board in the September 20 - 21, 2005, board minutes, it states, Dr. Brantley was licensed by examination in Tennessee and placed her license in "inactive" status prior to May, 1993. There was no returned mail; no notation that mail was received by Dr. Brantley or the Board receiving a response regarding the July, 1998 rule change notice. After board discussion, Dr. Reggie Dilliard motioned **to waive the internship hours but not the MPJE**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

ROBERT E. HAILE, DPH
134 County Road #581
Athens, TN 37303

Dr. Robert Haile is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (13) relevant to the requirement for the designated pharmacist in charge shall be on duty a minimum of fifty percent (50%) of the hours that the pharmacy is in operation and the pharmacist in charge shall not be required to be on duty more than an average of forty (40) hours per week.

Dr. Haile is requesting a reduction in the number of hours the PIC is required to be on duty at CVS #3783 to thirty-one (31) hours per week until the PIC position could be filled. After board discussion, Dr. Sheila Mitchell motioned to **grant** the waiver request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

KATRIN HOLT, '06 PHARM D CANDIDATE
6612 Millgrove Park Drive
Bartlett, TN 38135

Ms. Katrin Holt is requesting prior approval of Rule 1140-1-.04 (c) relevant to the requirements for licensure of completing four hundred (400) internship hours acquired in a non-traditional pharmacy internship program. Ms. Holt would like to complete the remaining one hundred (100) internship hours at the University of Tennessee Drug Information Center in Memphis, Tennessee. Dr. Todd Bess motioned to **grant** approval of the request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

MELVIN MAYS, DPH
LIBERTY PHARMACY
401 W. Public Square
Centerville, TN 37033

Interim Director Dr. Terry Grinder informed the Board that Dr. Melvin Mays is the pharmacist-in-charge at multiple sites for the State's correctional system and is requesting a waiver of Rule 1140-3-.14 (12) in order to provide additional services. Dr. Mays is the retaining PIC at the following correctional facilities: Turney Center located in Only, Tennessee; Wayne County Boot Camp, Clifton, Tennessee; Northwest Correctional Facility, in Tiptonville, Tennessee; and West Tennessee State Prison located in Henning, Tennessee.

The pharmacy services were re-contracted to Diamond Pharmacy Services of Pennsylvania, and are requesting Dr. Mays to provide PIC services for the following additional facilities: Tennessee State Prison for Women, DeBerry Special Needs, Charles Bass Correctional Facility and Riverbend Maximum Security, which are all located in Nashville, Tennessee. After Board discussion, Dr. Sheila Mitchell motioned to **grant** the waiver, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

DAVID SULLIVAN, DPH
4280 Minden Road
Memphis, TN 38117

Interim Director, Dr. Terry Grinder, advised the Board at the January 17 - 18, 2006 board meeting, Dr. David Sullivan requested a Modification to the Consent Order he entered into with the Board on September 20 - 21, 2005 relevant to the requirements of the successful completion of the MPJE and the internship hours for the reinstatement of his pharmacist license. The Board motioned to not waive the MPJE and deferred action on the internship hour request pending the MPJE results. Dr. Sullivan is requesting a waiver of the internship hours based on his teaching experience at Remington College. Mrs. Monica Franklin motioned to **deny** the waiver of the internship hours; seconded by Dr. Reggie Dilliard. There was one (1) nay vote. The motion carried.

CONSUELA YOUSEF, DPH
475 Allen Cox Road
Ripley, TN 38063

Dr. Terry Grinder, Interim Director, informed the Board at the January 17 - 18, 2006 board meeting, Dr. Consuela Yousef had requested a waiver of Rule 1140-5-.01 relevant to the requirement of fifteen (15) Live ACPE continuing education hours required for the renewal of her pharmacist license. The Board took no action

and requested more detailed information. Dr. Yousef stated she has been working in Saudi Arabia since July, 2004 and is employed with King Khalid National Guard Hospital. Dr. Yousef noted she is not serving in the uniformed services and is unsure whether the waiver request would be for this renewal cycle only, as it is contingent upon the renewal of her contract. Dr. Yousef noted that she needs to make arrangements to maintain a current license. Dr. Sheila Mitchell motioned to **grant** the waiver request for the fifteen (15) Live ACPE continuing education hours for the renewal of her license. In accordance with the Board's law and/or rule, Dr. Yousef must provide twenty-four (24) hours of non-live ACPE and a maximum of six (6) hours may be obtained as non-ACPE. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

MIKE SWAIN, DPH
PRESIDENT
VAN'S INSTITUTIONAL PHARMACY
317 Lindell Street
P. O. Box 259
Martin, TN 38237

Interim Director, Dr. Terry Grinder, stated Dr. Mike Swain, president of Van's Institutional Pharmacy, is an off-site pharmacy provider to Health South Cane Creek Rehabilitation Hospital in Martin, Tennessee. Dr. Swain is seeking the Board's advice on the proper steps he would need to take for Health South to install a Med Dispense or a Pyxis machine containing controlled substances. Health South Cane Creek Rehabilitation Hospital has neither an in-house pharmacy nor DEA Registration. Dr. Sheila Mitchell stated this **matter is not addressed in the Board of Pharmacy Rules**. The Board noted Health South would have to license a room as a pharmacy in order to install a Med Dispense or Pyxis machine in the facility.

TELECONFERENCE - CLAYTON R. ARWOOD, DPH
REQUEST FOR A PETITION FOR STAY OF FINAL ORDER

A teleconference meeting was conducted on Tuesday, March 7, 2006 at 9:30 a.m. CST in Room 160 of the Davy Crockett Tower with Mr. Douglas Trant, counsel representing Dr. Clayton R. Arwood and Mrs. Alison Cleaves, chief legal counsel for the Tennessee Board of Pharmacy for the purpose of considering a Petition for Stay of Final Order for Dr. Clayton R. Arwood's pharmacist license. Mrs. Cleaves advised Mr. Trant that a quorum of the Board was met. The Board members present were: Dr. Julie Frazier, Dr. Sheila Mitchell, Mrs. Monica Franklin, Dr. Todd Bess, Dr. Bettie Wilson and Dr. Reggie Dilliard. After discussion, Dr. Reggie Dilliard

motioned to **deny** the Stay of Final Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**JASON CARTER, DPH
TENNESSEE DEPARTMENT OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES
425 Fifth Avenue North
Nashville, TN 37243**

Dr. Jason Carter, Chief of Pharmacy with the Office of Clinical Leadership, Tennessee Department of Mental Health & Developmental Disabilities ("DMHDD"), appeared before the Board to discuss whether the Board of Pharmacy rules allow a Department of Health licensed hospital pharmacy to provide pharmacy services from a single location to another, separately licensed hospital (licensed by the Department of Mental Health and Developmental Disabilities and located adjacent to the Department of Health licensed hospital.) Dr. Carter stated the Department is considering building three (3) psychiatric hospitals without an on-site pharmacy as this would be a substantial savings to the State. The intention of the Department was to contract with a single hospital or state hospital to provide pharmacy services 24/7 but has been unsuccessful in their search. Dr. Sheila Mitchell noted that the Board of Pharmacy rules do state to meet the needs of the patient and to protect the public health and "DMHDD" should ensure that the proper requirements are in place. The Board noted there are many barriers for a pharmacy off-site. Dr. Carter thanked the Board for their time.

**WILLIAM CHRISTOPHER LOWRY – REQUIREMENT INQUIRY FOR THE REINSTATEMENT OF LICENSE
PARIS, TN**

Dr. William Lowry appeared before the Board to inquire as to the requirements he would need to meet for the reinstatement of his pharmacist license. Dr. Cliff Weiss and Dr. Mike Matheny with TPRN were in attendance. On April 11, 2001, Dr. Lowry's license was suspended due to chemical dependency. Dr. Weiss stated Dr. Lowry signed a contract with TPRN on March 6, 2006 but he has not met the 90/90 meetings or completed the required number of continuing education hours. Dr. Weiss inquired if there were any alternatives until these requirements were met as Dr. Lowry would fall under the portion of Rule 1140-1-.07 (3) (c), which would require him to take the NAPLEX exam. Dr. Julie Frazier advised Dr. Lowry that there is a good chance the Board will not probably waive the NAPLEX and suggested he should be preparing himself to sit for the exam. The Board informed Dr. Lowry of the availability of NABP "PSAM" test, which is confidential and will allow the

testing of your skills and indicates the areas of weaknesses as well. Dr. Lowry, Dr. Weiss and Dr. Matheny thanked the Board for their assistance and time.

DIRECTOR'S REPORT

MS. KATY CABE, RN MISYS HEALTHCARE SYSTEMS

Dr. Terry Grinder, interim director, stated the Board received an e-mail inquiry from Ms. Katy Cabe, a registered nurse, requesting the Board's formal approval of the Misys EMR (electronic medical record) system application which generates and transmits prescriptions electronically, fax or e-prescribed from providers to the patient's choice of pharmacy. The Board advised they are not in the business of approving systems.

KELLY A. MORGAN ATTORNEY MCGUIRE WOODS, LLP 77 W. Wacker Drive #4100 Chicago, IL 60601-1815

Interim Director, Dr. Terry Grinder, received an e-mail from Ms. Kelly Morgan, an attorney with McGuire Woods, relevant to pharmacy compliance issues pursuant to Rule 1140-4-.10. –Unused Drugs, Devices, and Related Materials. Ms. Morgan represents a client who repackages drugs from the distributor into blister packages and sends them to various institutional facilities. The medications are sent pursuant to a prescription order. The pharmacy would like to be able to accept the drugs which go unused for return, and credit the institutions. The pharmacy would like to repackage the blister packs from which doses have been removed, and redistribute all of the returned drugs which are up to standards. The Board stated as long as it meets the guidelines in Rule 1140-4-.10, it is O.K. Ms. Morgan asked for clarification or the interpretation of the Rule due to the language, does it mean “or” or “and”? The rule states, “All such drugs, devices or related materials returned to the pharmacy practice site must be destroyed, unless in unit dose packaging, unopened commercially prepackaged containers and in the professional judgment of the pharmacist in charge or designee, the medications or related material meet all federal and state board standards for product integrity. Legal counsel, Ms. Alison Cleaves stated the grammar in the Rule states it is “and”. Dr. Reggie Dilliard motioned **the rule is interpreted as “or” and was defined in the rules during the rules changes.** Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

THE TENNESSEE AFFORDABLE DRUG ACT OF 2005
REP. DAVID SHEPARD

Interim Director, Dr. Terry Grinder, informed the Board that Representative David Shepard has filed an amendment to the law regarding the generic drug substitutions as its intent is being misinterpreted. Rep. Shepard stated, "The intent of the legislation was to clarify when the doctor wants brand-name drugs and when they don't."

MS. KATHLEEN TOOKE
PROFESSIONAL BEHAVIOR AND ETHICS FOR PHARMACISTS

Dr. Terry Grinder, interim director for the Board of Pharmacy, provided a copy of Ms. Tooke's letter to the board expressing her opinion against any freedom of the "Conscious Clause" for pharmacists.

AUTHORIZATION TO ALLOW INTERIM DIRECTOR TO SIGN ON BEHALF OF BOARD PRESIDENT

Chief legal counsel, Mrs. Alison Cleaves, would like to obtain permission to allow the Interim director, Dr. Terry Grinder, to sign documents on behalf of the Board's president. Dr. Sheila Mitchell motioned to **approve**, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

UPDATED MPJE RESULTS AND INFORMATION

Dr. Terry Grinder, interim director, advised the Board that Dr. Richard Hadden attended an MPJE Review Workshop on January 19 - 23, 2006, in San Diego, California for the purpose of reviewing questions relevant to Tennessee laws. Dr. Grinder provided statistical data regarding the passing/failure of exam scores. Dr. Grinder noted NABP stated seventy-five percent (75%) of the questions pertained to national laws and twenty-five percent (25%) were applicable to state laws.

RETIREMENT OF DR. HARRY FUQUA
PHARMACIST INVESTIGATOR

The interim director, Dr. Terry Grinder, announced to the Board of the retirement of pharmacist investigator, Dr. Harry Fuqua on February 21, 2006. The Board noted their appreciation and congratulated Dr. Fuqua on his future endeavors. The Board office wishes Dr. Fuqua well and his presence will be missed.

REASSIGNMENT OF TERRITORIES TO REDUCE TRAVEL TIME AND EXPENSES

Dr. Terry Grinder, interim director, and legal counsel, Mrs. Alison Cleaves noted in order to reduce costs in the Department, the pharmacist investigator's territory is being re-aligned to areas closer to their residence.

BUDGET CONCERNS

TENNESSEE PHARMACY LAWBOOK

Dr. Terry Grinder, interim director, noted that a reprint of the 2002 Tennessee Pharmacy Laws is essential. Lexis Nexis can accommodate the Board's request while awaiting the completion of the final process for the "new" law books. Dr. Sheila Mitchell motioned to **approve re-printing 2,000 copies of the 2002 Edition of Pharmacy Laws**; seconded by Dr. Betty Wilson. All were in favor and the motion carried.

ISSUANCE OF DUPLICATE OR REPRINTED LICENSES

Dr. Terry Grinder, the board's interim director, advised the members that the Board does not charge a licensee when a duplicate license is requested. The issuance of a duplicate license requires staff approval and usually is the result of a change of address not being furnished to the Board. Dr. Julie Frazier referred the matter to the Ad Hoc Committee for review.

LICENSE VERIFICATION

The interim director, Dr. Terry Grinder stated the Board currently does not charge the licensee when requesting a license verification. Mrs. Alison Cleave, legal counsel, advised it would require a rule change.

E-MAIL VS. MAIL

Interim Director, Dr. Terry Grinder, stated by utilizing e-mail versus mail, it could be a money-saving measure for the State. The Board could contact the corporate office and information could be forwarded to the licensee.

PROBLEMS ASSOCIATED WITH DUPLICATE LICENSE NUMBERS

Dr. Terry Grinder, interim director, advised that some problems have occurred with the issuance of duplicate license numbers. Dr. Grinder noted prior to the implementation of the RBS system, the license numbers were issued manually which resulted in the duplication of numbers.

CONCERNS OF PROPER COUNSELING NOT BEING PERFORMED

Interim director, Dr. Terry Grinder, noted during the complaint report that several prescription refills were easily identified as the patient had received counseling.

INCREASING COMPLAINTS OF WORKLOAD ISSUES RULE 1140-2-.01 (7)

Dr. Terry Grinder, interim director, has received numerous inquiries relevant to the pharmacist workload issues and the Board's Rule 1140-2-.01 (7) stating a pharmacist shall not agree to practice under terms or conditions which tend to interfere with or impair the proper exercise of professional judgment and skill, which tend to cause a deterioration of the quality of professional service and patient care, or which require the pharmacist to consent to unethical conduct.

Pharmacists are expressing concerns over corporate demands being placed on them relevant to the "on-time guarantee" programs, which could be a potential for medication errors.

Interim director, Dr. Terry Grinder made reference to the Board's complaints that are currently in investigations. Dr. Todd Bess motioned he would like to see the complaints in investigations and set as a day's priority involvement; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ADDITION OF PSEUDOEPHEDRINE TO THE CONTROLLED SUBSTANCE DATABASE

Interim Director, Dr. Terry Grinder mentioned to the Board that Pseudoephedrine was not initially included in the database, as it was not a controlled substance.

JAMES OWEN, DPH – REQUEST FOR REINSTATEMENT OF LICENSE COVINGTON, TN

Dr. James Owen appeared before the Board to request the reinstatement of his pharmacist license along with advocate, Dr. Steve Jones. Interim Director, Dr. Terry Grinder noted in July, 2004, Dr. Owen's license was indefinitely suspended and the Board reinstated the license in January, 2005 with a term of probation for five (5) years. In May, 2005, Dr. Owen relapsed and returned for treatment at Cresthaven. Dr. Owen stated he was attending the meetings but was there physically not mentally. Advocate, Dr. Jones, commented Dr. Owen was around the program before and now he is "in" the program. Dr. Jones advised Dr. Owen has completed the

90/90 meetings and is complying with the TPRN requirements. After board discussion, Dr. Reggie Dilliard motioned:

Respondent does hereby agree to the reinstatement of license number **8405** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years**, from **March 7, 2006 to March 7, 2016**.

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Mike Nollner, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling

indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:
 - (i) **Less than one (1) year, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education; and
 - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Todd Bess seconded the motion. There was one (1) nay vote. The motion carried.

COMPLAINTS/LEGAL REPORT

1. Case No.: L06-PHR-RBS-200504273

A November 29, 2005 compliance inspection revealed that there were four (4) pharmacy technicians working with only one (1) pharmacist on duty. The pharmacist on duty at the time that the violation was detected responded to the complaint and stated that he does not make the pharmacist schedule for the pharmacy and that the district manager sent one of the pharmacists to another store and another pharmacist was on vacation.

Prior complaints: None

Recommendation: Consent Order with \$250.00 civil penalty to the pharmacy

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

2. Case No.: L06-PHR-RBS-200600218

Complaint initiated based on a letter from the North Carolina Board of Pharmacy stating that a consumer reported to their Board that a misfill occurred; consumer alleged to NC Board that she received Amaryl from a pharmacy located in Tennessee, ingested the drug and became ill. Our investigators traced the dispensing of the prescription to the correct pharmacy branch, obtained a copy of the prescription which was for Amaryl 2mg and also inspected the tablets that were sent to the inspector by the patient. The patient received the correct brand name drug. Patient may have received the generic prior to this which caused her to become ill, but the investigation did not reveal a misfill.

Prior complaints: None

Recommendation: Dismiss

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

3. Case No.: L06-PHR-RBS-200600564

Respondent, pharmacy technician was terminated from her employment for theft of Hydrocodone, Alprazolam, Valium and Phentermine. Respondent not only admitted the theft to Loss Prevention, but also admitted to consuming the Phentermine while she and her brother sold the other substances. The police were called and the Respondent was arrested.

Recommendation: Formal Hearing (Consent Order for Revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

4. Case No.: L05-PHR-RBS-200503707

Complainant alleges that her mother was charged for Zyprexa 5mg when the prescription was for 2.5mg Zyprexa twice daily and 5mg Zyprexa once daily. Complainant claims that this happened to his mother twice and that he resolved the first billing with a \$383.20 credit and indicates that he cannot resolve the second billing because no one will return his calls.

Response to the complaint from the PIC states that the patient's co-pays were corrected and the issue has been settled.

Prior complaints: None

Recommendation: Dismiss

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

5. Case No.: L06-PHR-RBS-200504501

Complainant alleges that his wife's prescription for Zyprexa was mistakenly filled with Zyrtec; wife was a resident at a long-term care facility. Complainant alleges that his wife went without the correct medication for approximately nine (9) months. PIC admitted the misfill and stated that the technician placed the medication with the unit dose box for the pharmacist to check. The "cart fill/check record" shows that it was dated and initialed by both the technician and the pharmacist. The pharmacist checked the medication and label for correctness and signed the "cart fill/check record". The Zyrtec was placed in the Zyprexa box and the nurse at the center reported the misfill. Both the technician and pharmacist involved in the incident were made aware of the error and attended an in-service. PIC also states that they are working toward bar-coding their labels to match the bar-coding that they presently have on teach medication dispensed from the pharmacy.

Prior complaints: None

Recommendation: Letter of Warning to review policies and procedures regarding how medications are checked, conduct in-service on look-alike/sound-alike drugs for all staff and implement bar coding as planned.

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

6. Case No.: L05-PHR-RBS-200504392

Complainant alleges that his wife did not have her medications for approximately three (3) days because the pharmacy would not deliver them to the assisted living facility where she was housed. Complainant alleges that his wife was released from the hospital to an assisted living facility on Friday; he went to the pharmacy on that same day to pick up the prescriptions and was told that they would be delivered to the facility later that afternoon. On Sunday morning, the Complainant learned that the prescriptions were not delivered and that the pharmacy was closed for the weekend. On Monday, the on-duty nurse at the facility informed the Complainant that the pharmacy would not deliver the prescriptions, but that he must pick them up and sign for them, which he did.

In response, pharmacy owner states that although he was told by the assisted living facility that the Complainant would pay for the medications and pick them up, when the Complainant came into the pharmacy on Friday, another pharmacist told the Complainant that they would be delivering the medication; this was not communicated to the pharmacist who dispensed the medication who was under the assumption that the Complainant would be picking up the medication. Respondent states that no one called his emergency number (which is listed on his front door) or notified him of a problem until Monday morning.

Prior complaints: None

Recommendation: Dismiss

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

7. Case No.: L05-PHR-RBS-200503515

Complainant alleges that the pharmacist refused to fill a prescription unless the physician changed the dosage because he did not want to open a stock bottle to supply a lesser amount of the drug. Complainant also registered a complaint with the TennCare Fraud Unit.

Pharmacist states that the prescription for Welchol was telephoned to the pharmacist with directions "take two (2) daily". Pharmacist informed the caller that the recommended dose of Welchol was three (3) tablets twice a day and asked to speak to the physician to confirm the dosage. The caller refused to allow the pharmacist to speak to the physician. Pharmacist explained to the Complainant that he was reluctant to fill the prescription until the prescriber confirmed the dose. Complainant was not receptive to this and chose to have his prescription filled elsewhere. Investigator indicates that the prescription in question was not filled on TennCare and therefore there is no evidence to support an allegation of fraud.

Prior complaints:

DPh: None

Pharmacy: None

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

8. Case No.: L05-PHR-RBS-200500942

Complainant alleges that the Respondent's, pharmacy technician, employment was terminated for theft of Schedule II Controlled Substances.

Recommendation: Formal Hearing (Consent Order for Revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

9. Case No.: L05-PHR-RBS-200503513

Complainant alleges that her prescription for Metformin 500mg was filled with the incorrect medication and with incorrect directions. Complainant states that when she looked at the medication in the bottle it did not look like the medication that she previously received. Complainant called the pharmacist and described the drug to her and Complainant states that the pharmacist told her that she had the wrong drug. Complainant claims that she took the drug for thirty (30) days. Investigator interviewed the district manager, PIC and DPh on duty that the day the error occurred and none of them could provide any personal knowledge of the error and were unaware that an error may have occurred.

Prior complaints:

DPh: (1/2003, misfill, LOI)

Pharmacy: (1/2003, misfill, LOW)

Recommendation: Dismiss

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

10. Case No.: L05-PHR-RBS-200504390

Complainant alleges that the Respondent, pharmacy technician, was terminated for theft of medications. Respondent admitted to theft of controlled substances. DEA 106 Form was obtained revealing that several strengths of Hydrocodone, Alprazolam and Phentermine were taken.

Recommendation: Formal Hearing (Consent Order for Revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

11. Case No.: L05-PHR-RBS-200503514

Complainant alleges that her prescription for Vytorin 10/20 contained 33 x Vytorin 10/20 and 25 Zetia 10mg. The pharmacist states that he has no idea who this might have happened. Normal procedures were observed in the dispensing process and no alerts, including a system that weighs the finished product, were noticed. The DPh also states that the two (2) drugs are actually separated in the pharmacy and not on a shelf next to each other. The DPh on duty at the time of the investigator's visit notes that a partial bottle of Vytorin 10/20 was on the shelf. When investigated the bottle contained 22 x Vytorin and 2 x Zetia. The bottle was removed from the pharmacy. Investigator's summary noted that no one could actually explain the error.

Prior complaints:

DPh: None

Pharmacy: None

Recommendation: Letter of Warning to DPh for error and to the PIC to review P & P relative to restocking procedures.

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

12. Case No.: L05-PHR-RBS-200502792

Complainant alleges that her prescription for Artane 2mg was erroneously dispensed as Ativan 2mg. Complainant alleges that she consumed the incorrect medication became dizzy, had blurred vision and memory loss. DPH state that the prescription was incorrectly entered by the technician and the error was not discovered when the prescription was checked. The error was discovered two (2) days later and corrected, but the Complainant refused to return the previous prescription. DPh cannot remember counseling the patient. DM states that the prescription was misread and erroneously dispensed. DM states that when he spoke to the patient, he understood her to say that she had not consumed any of the medication.

Prior complaints:

DPh: (2/97, dismiss)

Technician: None

Pharmacy: 5/2003, shorted Rx, dismiss)

Recommendation: Letter of Warning to DPh for misfill and Consent Order with \$250.00 civil penalty for failure to counsel.

Dr. Sheila Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

13. Case No.: L04-PHR-RBS-200418764

Complainant alleges that her medications (Soma and Seroquel) were given to an unknown person who was not authorized to pick up medications. The Complainant further alleges that the pharmacy refused to allow her to view the videotape of the person picking up the medications, that the pharmacy was rude and told her that they would no longer fill her prescriptions. Additionally, she alleges that she was previously shorted five (5) tablets of Oxycontin. The DPh confirms that the prescriptions were picked up at the drive thru by a person who knew the patient's name and address. Complainant has had several different people pick up prescriptions for her in the past. The PIC states that the Complainant has frequently alleged shortages of medications and other complaints. Based on her record of continuing complaints, they chose to tell her to go to another pharmacy.

Prior complaints:

DPh: None

Pharmacy: (1/96, shorted Rx, Dismiss)

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

14. Case No.: L05-PHR-RBS-200503602

Complainant alleges that the Respondent, pharmacy technician, self-identified using marijuana before she submit to a random drug test by her employer, which came back negative. Because of the Respondent's admission, her employer enrolled her in a "last chance" program, which the Respondent completed. Based on her admission and her completion of the program, she was not terminated, but she was transferred to another store.

Recommendation: Consent Order for one (1) year probation

Dr. Reggie Dilliard motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

15. Case No.: L05-PHR-RBS-200503802

Complainant alleges that a prescription for Ciprodex Ophthalmic Drops was mistakenly dispensed with Ciprodex Otic Drops. Complainant further alleges that she put one (1) dosage of the incorrect medication in her eye. Prescriber wrote original prescription for ophthalmic drops and records indicate that the otic drops were dispensed. There is no notation in the computer for the intended use of the product, but investigator notes that the manufacturer does not make an ophthalmic dosage form. DPh states that she did counsel the patient, but that the prescription label completely covered up the manufacturer's product label notes indicating that the product was a "sterile otic suspension". When the DPh was notified of the error by the patient, the DPh contacted an ER physician that had spoken to the patient who stated that a single dose probably was not enough to cause any injury and prescribed an alternative treatment which was never picked up by the patient.

Prior complaints:

DPh: None

Pharmacy: 7/2001, refuse to fill, dismiss)

Recommendation: Letter of Warning to DPh

Dr. Reggie Dilliard motioned to **issue a Letter of Warning to the pharmacist**. In the letter, advise the pharmacist to review counseling procedures as the generic substitution is to be used in the eyeball and the placement of the label or packaging; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

16. Case No.: L06-PHR-RBS-200600065

Complainant alleges that the Respondent, pharmacist, has violated his patient confidentiality by telling his neighbor and transportation driver about the Complainant's medication, the Complainant's medical condition that required him to take the medication and the fact that he cannot afford this medication, when the Complainant did not authorize the neighbor to have this information. Respondent denied the allegations and states that his company's internal investigations investigated this complaint and found no merit to the allegations. DPh's statement suggests that the Complainant was confronted by the neighbor/transportation driver about her behavior in the store and that might possibly be the basis for assuming the Respondent spoke to the neighbor/driver. We also received a statement from the neighbor/driver denying that the Respondent had ever discussed the Complainant's medical information with him.

Prior complaints: None

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

17. Case No.: L06-PHR-RBS-200600063

Complaint generated from the National Practitioner Data Bank stating that a misfill occurred on or about September 12, 2005, that the patient became ill after taking the incorrect medication and a sum was paid to the patient from the insurance company. Respondent states that he did misfill a prescription for Aciphex 20mg with Abilify 20mg. Pharmacist states that at the time, they had Abilify tablets stocked in bottles adjacent to the Aciphex on the shelf. Pharmacist states that he attached the Aciphex label to an Abilify stock bottle and did not catch the mistake. At some point, the patient noticed that the tablets looked different than before, but thought it was the generic form of Aciphex. When her GI symptoms did not subside after taking one (1) of the new tablets, she took a second tablet thinking that the generic version was not working well. Patient later went to the local ER where the misfill was detected; patient was treated and released the same day. Patient then brought the misfill to their attention and contacted the insurance agent. Pharmacist states that the incident was settled to the patient's satisfaction and that the patient still continues to get her prescriptions filled at their pharmacy. Since the incident, DPh states that he has taken the following steps to prevent a recurrence in the future: (1) separated the products on the shelf; (2) changed his SOP to incorporate the idea of having at least one (1) other person viewing each prescription filled.

Recommendation: Letter of Warning

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

18. Case No.: L05-PHR-RBS-200501875

Complainant alleges that the prescriptions for a certain patient for Anafranil, Lorazepam, Cimetidine, Benzotropine and Urecholine were filled and refilled at the pharmacy for this patient for approximately two (2) years after the patient stopped seeing the physicians. Investigator obtained affidavits from the physicians stating that they had not seen the patient for years. Investigator did not find any hard copy prescriptions on file except for three (3) called-in prescriptions.

Recommendation: Formal Hearing

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

ADDENDUM TO THE LEGAL REPORT

1. Case No.: L06-PHR-RBS-200600213

Complainant, a partial hospitalization program, alleges that the patient, Ruth Stanley had two (2) prescriptions for Celexa and Hydroxyzine that had incorrect directions on them. Medications were dispensed as reading Celexa 20mg in the A.M. and Hydroxyzine 50mg at the H.S., when they should have been reversed. It is uncertain based on the complaint, as to whether the patient consumed the incorrect medication since complaint just states that the patient presented with prescriptions containing the incorrect directions. Complainant called the pharmacy to let them know of the error. Pharmacist states that the frequency was correct, but the time of day to be taken was incorrect. Pharmacist states that the technician typed in the directions incorrectly. Pharmacist also states that the patient refused counseling and that this is the first time that he has ever heard of this incident.

Prior complaints:

1986- Surrender pursuant to Agreed Order in Criminal Court and placed on Pre-Trial Diversion;

1999- Consent Order with \$150.00 civil penalty, complete fifteen (15) hours of CE within six (6) months of execution of order.

Recommendation: Letter of Warning to DPh

The Board **took no action and deferred the complaint to the May 16 - 17, 2006 board meeting.**

2. Case No.: L05-PHR-RBS-200502650

Complaint generated from self-reporting by the PIC because a death occurred at the facility as a result of a medication error. The former PIC states that there was a stock mix up of Norepinephrine and Bumex because there was almost identical packaging; patient should have gotten Bumex, but got Norepinephrine. The incorrect medication was pulled on a Sunday by the DPh and filled incorrectly for Monday's cart exchange. The medication was signed off and initialed by the DPh. The dose was subsequently administered by the floor nurse on Monday, which resulted in the patient's death. Former PIC states that an extensive investigation was initiated and follow-up measures were taken to avoid recurrence. Contact was made with the DPh who admits the error.

Prior complaints: None

Recommendation: Consent Order with \$1,000.00 civil penalty

Mrs. Monica Franklin motioned **to accept counsel's recommendation to issue a Consent Order with \$1,000 civil penalty with instruction as to what they did and the action taken to correct it**; seconded by Dr. Reggie Dilliard. All were in favor and the motion carried.

3. Case No.: L05-PHR-RBS-200420334

Complainant alleges that the pharmacy is dispensing large amounts of controlled substances and what appear to be early refills for a particular patient who died from an overdose on January 27, 2004. Investigation revealed that the pharmacy did not refill the controlled substance prescriptions too early; however, it appears that the patient, based on a prescription print-out was prescribed many controlled substances, such as two (2) to three (3) prescriptions a month for Hydrocodone, Diazepam, Oxycodone and APAP #3. In the month of December, the patient was dispensed six (6) controlled substance prescriptions and eight (8) controlled substance prescriptions in the month of January. Investigation revealed that many different pharmacists filled these prescriptions, including the PIC.

Recommendation: Consent Order with \$500.00 civil penalty for failure to perform DUR.

Dr. Reggie Dilliard motioned to **issue a Consent Order with \$500 civil penalty to the pharmacy for failure to perform DUR and to provide to the Board an explanation on how this occurred and the plan to prevent this from happening in the future.** Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

4. Case No.: L06-PHR-RBS-200600039

Complainant alleges the following: (a) That he was shorted four (4) pills in his prescription for Cephalexin 500mg; (b) Wrong directions on his prescription for Lomotol. Complainant claims that he was supposed to take two (2) pills in the morning, but that the label said two (2) tablets four (4) times a day; (c) Only received sixty (60) tablets of Lorazepam when the bottle was labeled ninety (90) pills. Complainant claims that he was charged for the ninety (90) tablets and then again for the additional sixty (60) tablets; (d) claims that he has his bottle of Thorizin, but the pharmacy called him and told him that it was ready for pick-up; (e) Claims that the pharmacy tried to charge him for the additional Cephalexin.

Pharmacists who filled Complainants prescriptions state that the Complainant received twenty (20) Cephalexin 500mg. After returning home, he called and said that the prescription was filled incorrectly. Pharmacist asked him to return the prescription to make sure. When Complainant returned to the pharmacy, pharmacist states that the prescription was correct. When pharmacist asked him what was wrong, Complainant stated that it should say Keflet and pharmacist told him that Cephalexin was the generic for the brand name Keflet. Complainant then claimed that he was shorted by four (4) tablets and that he only had eighteen (18) in the bottle, when the bottle was filled with twenty (20) tablets.

Pharmacist states that the Lomotil prescription states 2 by mouth four times a day, which is usually the correct dosage. Pharmacist states that they owed the Complainant some Lorazepam pills because when they filled the prescription, they did not have enough. They failed to cross out the price on the extra ticket that they made him. The delivery driver would not leave the pills because they thought he owed money on them. Pharmacist talked to the delivery driver and told him to drop them off and there was no additional charge. Additional pills were dropped off to the Complainant and pharmacist apologized.

Prescription for Thorazine generic as written 100mg 2 four times a day, 240 tablets. Pharmacist told him that it would be less expensive to get 200mg 1 four times a day, 120 tablets. Complainant agreed, but then claimed he did not understand and that the pharmacist was nuts. Based on the claims that he was shorted four (4) tablets, the pharmacist hand-delivered four (4) more Cephalexin, but does not state if there was an additional charge for them.

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation;** seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**STEPHEN BARRETT, DPH – REQUEST FOR REINSTATEMENT OF LICENSE
BRISTOL, TN**

Dr. Stephen Barrett appeared before the Board along with his wife, to request a **reinstatement of his pharmacist Tennessee license. Dr. Terry Grinder, interim director noted in January, 1998**, Dr. Barrett's license was reinstated with a probationary term of five (5) years. In September, 2001, his license was revoked due to relapse. Dr. Barrett stated his original state of licensure is Virginia. In July, 2004, Dr. Barrett's license was reinstated in Virginia and he is in compliance with the requirements outlined in the Consent Order. The contract will expire on July 24, 2008. After board discussion, Dr. Reggie Dilliard motioned to mirror the Virginia Board of Pharmacy's Consent Order to:

1. Furnish quarterly reports
2. No Pharmacist in Charge
3. Obtain advocacy with the Tennessee Pharmacist Recovery Network
4. Contract with the Tennessee Board of Pharmacy shall expire the same date as Virginia' Consent Order on July 24, 2008.

Since Dr. Barrett's license has been revoked since September, 2001, Rule 1140-1-.07 (3) (b) is applicable.

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education;
- III. Successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE);
- IV. Pay all cumulative license renewal fees and any applicable penalties.

Omit section V relevant to the internship hours. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**MOUNTAIN STATES HEALTH ALLIANCE
JOHNSON CITY, TN**

President Julie Frazier acknowledged in the Sunday, March 5, 2006, Tennessean of Mountain States Health Alliance receiving the Excellence Award from the Tennessee Center for Performance Excellence. The award goes to an organization that demonstrates management excellence. President Frazier congratulated board member, Dr. Bettie Wilson, who is the Director of Pharmacy Services.

Tennessee Board of Pharmacy
March 7 - 8, 2006

**NABP 102ND ANNUAL MEETING
SAN FRANCISCO, CA
April 8 - 11, 2006**

The National Association of Boards of Pharmacy's 102nd Annual Meeting will be held on April 8 - 11, 2006 in San Francisco, California. President Julie Frazier requested nominations for an official voting Delegate and Alternate, who is empowered to act for the State of Tennessee. Mrs. Monica Franklin nominated Dr. Julie Frazier as the Delegate and Dr. Reggie Dilliard as the Alternate; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

**NABP'S EXECUTIVE COMMITTEE NAMES KENDALL M. LYNCH, RPH
2006 - 2007 HONORARY PRESIDENT**

Dr. Julie Frazier announced Dr. Kendall M. Lynch, former director for the Tennessee Board of Pharmacy, was selected to serve as its honorary president for 2006 - 2007. In recognition of his commitment to the Association's mission and goals, NABP names Dr. Lynch as its honorary president for his service to the public health, for his dedication to NABP and the boards of pharmacy, and for diligence and commitment to the pharmacy profession and patient care. Congratulations Dr. Lynch!!

BOARD OF PHARMACY STAFFING

President Julie Frazier and Dr. Reggie Dilliard met with Assistant Commissioner Meredith Sullivan to discuss the Board's process; the salary range for both the Director and pharmacist investigators; and requested a little of the board's history and the purpose of the board as to discipline and the regulation of the profession of pharmacy.

Dr. Robert Mitchell stated Deputy Governor Cooley contacted him regarding money issues and noted he will take the matter under advisement. Interim director, Dr. Terry Grinder noted \$250,000 is set aside for the Controlled Substance Database monitoring program and the Board of Pharmacy has received a grant in the amount of \$350,000.

INTERVIEW COMMITTEE – EXECUTIVE DIRECTOR POSITION

President Julie Frazier noted that three (3) board members will comprise the Interview Committee for candidates applying for the Board of Pharmacy Executive Director position.

ADJOURNMENT

Dr. Sheila Mitchell motioned to adjourn the Board of Pharmacy on Tuesday, March 7, 2006 at 4:35 p.m. CDT; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

RECONVENED

The Tennessee Board of Pharmacy reconvened on Wednesday, March 8, 2006 at 9:00 a.m. CDT in Room 160 of the Davy Crockett Tower, Nashville, Tennessee. A quorum of the members being present, President Julie Frazier called the meeting to order. All board members were present with the exception of Dr. Todd Bess and Dr. Robert Mitchell.

JAMES KING, JR., DPH – REQUEST FOR REINSTATEMENT OF LICENSE KNOXVILLE, TN

Dr. James King appeared before the Board to request the reinstatement of his pharmacist license. Dr. Kenny Archer and Dr. Janet Hicks with the Tennessee Pharmacist Recovery Network advocated on his behalf. Interim Director, Dr. Terry Grinder noted Dr. King's problem with addiction first began in February, 1976 due to emotional distress and his Tennessee license was placed on a three (3) year term of probation. In 1985, Dr. King entered treatment for a thirty (30) day program but relapsed after four (4) months of sobriety. In May, 1987, Dr. King entered and completed a treatment program in November, 1987 and his license was reinstated and placed on probation. In 1991, after four (4) years of sobriety, Dr. King relapsed and the Virginia Board of Pharmacy required Dr. King to attend 90 meetings in 90 days and to submit to random urine screens and his Virginia and Tennessee licenses were placed on probation. In March, 2004, Dr. King was admitted to Cornerstone and finished the program in October 2004. After board discussion, Dr. Reggie Dilliard motioned:

Respondent does hereby agree to the reinstatement of license number **4070** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years**, from **March 7 - 8, 2006 to March 7 - 8, 2016.**

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed

by the Respondent's primary physician, **(will need to obtain a primary physician)** except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;

- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery

Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;

- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a “floater” for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:

(ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education;
- III. Successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE);
- IV. Pay all cumulative license renewal fees and any applicable penalties;
- V. Complete a period of pharmacy internship in Tennessee.
 - A. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**JOHN BELL, DPH – REQUEST FOR REINSTATEMENT OF LICENSE
MORGANTOWN, WEST VIRGINIA**

Dr. John Bell appeared before the Board along with advocates, Dr. Kenny Archer and Dr. Janet Hicks, to request the reinstatement of his pharmacist license. Interim Director Dr. Terry Grinder advised the Board in September, 2002, Dr. Bell was allowed to reciprocate his license to Tennessee and had to meet the requirements of the TPRN and West Virginia contracts. In November, 2005, Dr. Bell stated he self-reported violating his probation due to the consumption of alcohol, and entered Cornerstone for

treatment and completed the program on December 12, 2005. Dr. Bell's support network includes his parents and TPRN group. After board discussion, Dr. Sheila Mitchell motioned:

Respondent does hereby agree to the reinstatement of license number **12332** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years**, from **March 8, 2006 to March 8, 2016**.

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dr. Robert Beto, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of

alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:

Less than one (1) year, the pharmacist shall:

- a. Provide written notice requesting an active license;
- b. Satisfy all past due continuing pharmaceutical education; and
- c. Pay all cumulative license renewal fees and any applicable penalties.

Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

**BRENDA PAWLING, DPH - RECIPROCAL CANDIDATE
SEQUIM, WA**

Interim Director, Dr. Terry Grinder, stated the Board has received a reciprocal application from Dr. Brenda Pawling, who had previous disciplinary actions in Washington. Dr. Pawling has fulfilled the requirements placed on her license and has completed the five (5) year probationary periods. Dr. Reggie Dilliard motioned to **allow Dr. Pawling to proceed with the reciprocity process**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**KEITH WIDMER, DPH - RECIPROCAL CANDIDATE
EULESS, TX**

Dr. Terry Grinder, interim director, advised the Board in 1989, Dr. Widmer was arrested and pled guilty for controlled substances. In 1993, Dr. Widmer sought treatment and his license was placed on a three (3) year term of probation. In 2003, Dr. Widmer reciprocated his license to Texas but failed to disclose the action taken by the Pennsylvania Board. The Texas Board took action for the submission of a fraudulent application and Dr. Widmer signed a Consent Order relevant to his actions. Dr. Reggie Dilliard motioned to **accept** Dr. Keith Widmer's reciprocal application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**STEPHEN SEAGROVE – REQUEST FOR PHARMACY TECHNICIAN APPROVAL
THOMPSON STATION, TN**

Mr. Stephen Seagrove noted on his technician application that he had a DUI conviction in Mississippi while in high school. On November 4, 1998, Mr. Seagrove pled guilty to possession of alcohol by a minor. Dr. Sheila Mitchell motioned to **approve** the pharmacy technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**ANDRE WAGNER - REQUEST FOR PHARMACY TECHNICIAN APPROVAL
ANTIOCH, TN**

Mr. Andre Wagner noted on his pharmacy technician application that he had been charged for domestic violence three (3) years ago for physically pushing his wife. Mr. Wagner was charged and sentenced to sixteen (16) to twenty (20) hours of anger management classes plus the cost of the classes and court costs. Dr. Sheila Mitchell motioned to **approve** the registration; seconded by Mrs. Monica Franklin.

**DEANNA L. SHELL, RT – REQUEST FOR APPROVAL OF TECHNICIAN REGISTRATION FEES DUE TO
ACTIVELY SERVING IN THE UNIFORMED SERVICES
OOLTEWAH, TN 37363**

Ms. Deanna Shell is requesting a waiver of the renewal fees of her pharmacy technician registration as she has been serving in the uniformed services of the United States. The Board noted they did not have the authority to waive a rule that was not in existence, as Rule 1140-1-.09 refers only to pharmacists. Dr. Sheila Mitchell motioned to **waive the late fees**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried. The Board commended Ms. Shell's services for the protection of our Great Nation!

Tennessee Board of Pharmacy
March 7 - 8, 2006

ADJOURNMENT

President Julie Frazier adjourned the Board of Pharmacy on Wednesday, March 8, 2006 at 12:30 p.m. CST.

Respectfully submitted,

Julie Frazier, President

Terry W. Grinder, Interim Director